



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

March 13, 2008

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:30 p.m. at City Hall, 251 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

Present: Mayor John Rees, Commissioners Harold L. Boulter, Bob Buchanan, H. Gerald Jowers, and Colin Sharman

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, City Clerk Kathy Golden, Assistant City Manager Marshall Robertson, Public Services Director Don Cochran, Fire Chief John Williamson, Police Sergeant Jim Carter, Building Official Skip Lukert, Finance Director Brian Strobeck, Human Resources Director Frank Gilbert, Information Technology Director Bob Reilly, Recreation Director Jay Conn, Economic Development Director Dolores Key, Assistant City Engineer Mike Kelley, Public Works Assistant Director Charlie Tinch, Solid Waste Manager John Love, Executive Assistant to the City Manager Andrea Vaughn, and West Orange Times reporter Michael Laval.

1. **APPROVAL OF MINUTES**

Motion by Commissioner Jowers to approve the regular meeting minutes of February 28, 2008 as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.

2. **PRESENTATION**

American Water Works Association award for the Best Tasting Drinking Water in Central Florida

Public Services Director Cochran stated that it is always nice for a City to be recognized and win an award like this. He stated that the contest got down to round two and the City of Winter Garden won against DeLand and the Orlando Utilities Commission. He recognized key staff members for their efforts.

3. **FIRST READING OF PROPOSED ORDINANCE**

Ordinance 08-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADDING DIVISION 6 IN ARTICLE II OF CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN ENTITLED "DOWNTOWN WINTER GARDEN MINIMUM MAINTENANCE CODE"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 08-21 by title only. City Manager Bollhoefer stated that staff has been working on this for approximately 2 years. The Downtown Merchants Guild and other businesses in the area have asked for a minimum maintenance ordinance. Most of the merchants do a very good job of maintaining their buildings and keeping them looking good.

However, there are a few merchants that do not and this takes away from the value of the other buildings. The merchants voted unanimously in favor of this ordinance that will establish rules and controls the City will use for those merchants not taking care of their buildings. This ordinance will go a long way in making sure that the downtown area will stay looking good. He shared that most cities that do downtown revitalizations pass similar ordinances.

Mayor Rees inquired as to the boundaries of the area. Mr. Bollhoefer stated that it is from Smith Street, to Newell Street, all the way out to Dillard Street, and possibly out to Park Avenue encompassing the downtown corridor.

Mayor Rees asked if it was comparable to other cities. Mr. Bollhoefer responded yes, it is comparable, there were others that had a lot more rules and some that did not have as many and staff found this one to be at the right level for maintaining our downtown area.

Mayor Rees opened the public hearing. Commissioner Sharman asked how many merchants were against this ordinance. Mr. Bollhoefer replied that at this time there was not one against this ordinance. He stated that there was a meeting with the downtown merchants a couple of weeks ago and their main concern was the lack of this type of ordinance to clean up some of those buildings. Mayor Rees closed the public hearing.

Motion by Commissioner Boulter to approve Ordinance 08-21 with the second reading and public hearing being scheduled for March 27, 2008. Seconded by Commissioner Buchanan and carried unanimously 5-0.

Mr. Bollhoefer added that while there were no merchants present at the meeting against this ordinance, there may be some merchants in opposition who have not yet come forward.

4. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

Ordinance 08-14: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTION 102-92 OF CHAPTER 102 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING PROHIBITED SIGNS WITHIN ALL ZONING DISTRICTS; PROVIDING FOR A MECHANISM TO ENCOURAGE THE ELIMINATION OF EXISTING BILLBOARD SIGNS IN UNDESIRABLE LOCATIONS WITHIN THE CITY BY ESTABLISHING A CITY COMMISSION VARIANCE PROCESS TO FACILITATE THE SUBSTITUTION OF AN EXISTING BILLBOARD IN AN UNDESIRABLE LOCATION WITH A BILLBOARD IN A MORE DESIRABLE LOCATION WITHIN THE CITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 08-14 by title only. City Manager Bollhoefer stated that two major billboard companies came to the City and asked if the City would consider alternative locations for billboards located on State Road 50 and Dillard Street that are currently located in obtrusive places. This ordinance provides a mechanism in which to do so. It does not give them the right to move the signs; that would still need to come before the City Commission for approval. These signs would be visible from the State Road 429 and would not necessarily be visible to the residents on State Road 50 and Dillard Street. Mayor Rees opened the public

hearing; hearing and seeing none, he closed the public hearing. **Motion by Commissioner Sharman to approve Ordinance 08-14. Seconded by Commissioner Boulter and carried unanimously 5-0.**

5. **REGULAR BUSINESS**

A. **Resolution 08-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, VACATING AND ABANDONING THE PEDESTRIAN EASEMENTS OF THE LAKE COVE POINTE SUBDIVISION**

City Manager Bollhoefer stated that when the Lake Cove Subdivision PUD was passed, it included three pedestrian easements that allowed pedestrians to enter the subdivision through some of their side areas. The residents did not like this option because it could potentially allow vandals or criminals access to their subdivision. They are asking that the City to change this. Staff had a meeting with all the residents and they unanimously signed a document stating that they wanted this resolution. There will still be a pedestrian access easement at the two front gates. **Motion by Commissioner Jowers to approve Resolution 08-08. Seconded by Commissioner Boulter and carried unanimously 5-0.**

B. **Recommendation to approve a 10-year agreement with Foundation Academy for City paid impact fees for their new campus concession stand and athletic field restrooms**

City Manager Bollhoefer stated that at the last meeting there were items discussed that the City Attorney and Foundation Academy wanted included in the agreement. He stated that Mr. Ardaman has been negotiating with Foundation Academy and an agreement was reached and has been provided to the Commission.

Mr. Ardaman explained that there is a clean version and a black-line version of the agreement showing the last set of changes requested by Foundation Academy. He briefly explained that in the document paragraph 3 defines that the fields at Foundation Academy would be open to City residents; there would be no charge for this location, not including organized teams or groups having coaches or managers. He reiterated that if City residents want to use the fields, they can at no charge during those times when there are no conflicts. With respect to groups that the City allows to utilize City fields at no charge, the City requested that they also be at no charge for the Foundation Academy fields. Foundation Academy has significant expenses and they have requested that a cleaning charge and field lighting fee be included in the agreement, which was added to paragraph 4 providing that these fees have to be reasonable.

The last change made at Foundation Academy's request was on page 4 striking any interest charged in the event that the City was owed money because it was not allowed usage of the field. Mr. Ardaman stated that as a compromise these changes were agreed to by staff and is now before the City Commission for consideration. Mayor Rees asked for clarification regarding whenever the little league wants to use the field. Mr. Ardaman responded that the key to that answer is on how the City treats the little league request. He explained that if the City's Parks and Recreation Department does not assess a fee for that group, then the little league could use the Foundation Academy fields, but would

have to pay a reasonable cleaning and lighting fee. If the little league does have to pay a fee to the City, then the Foundation Academy could charge a reasonable fee in addition to the cleaning and lighting fees.

Commissioner Jowers stated that he has a problem with the charges being included. He is in favor of the rest of the agreement, but the City does not charge the little league and those similar organizations to use our fields as practice fields. These types of organizations police, clean, and maintain the sites themselves. He stated that he resents the fact that they came back before the City stating they would charge. The City is pumping \$16,000+ up front out of the general fund on their behalf.

Mr. Ardaman stated that the City Commission could choose to delete the reasonable charge to clean the fields and a field light fee. It could be approved by the City Commission and submitted to Foundation Academy to approve or not. There was discussion on the City's charges and fees for similar usage of fields.

Steve Richards, representative for Foundation Academy stated that he actually maintains the fields at this location and the line item is just to cover the expense, not make money. He shared that Windermere is utilizing the field and they abuse it by leaving the lights on and not cleaning it. He stated that the Foundation Academy is absorbing that cost and is already paying the City of Winter Garden to remove the trash.

Commissioner Jowers reiterated that the City of Winter Garden is paying \$16,000+ right upfront which he did not believe Windermere was paying.

Kathy Smith stated that she works for Foundation Academy and she takes issue with the statement made that 90% of the field usage would be by Foundation Academy. This is not the case; they have one softball team at this time and there are four fields so there is no way that Foundation Academy would be using the fields 90% of the time. She stated that this is why they are coming to the City of Winter Garden because they would like the fields to be used more. She explained the how the fields are currently being used and that the fields are open. That is why they approached the City of Winter Garden because they would like the community to use them.

Commissioner Jowers stated that he wanted the fees stricken from the agreement. Commissioner Boulter stated that if the fields are not kept clean they would be denied usage.

There was discussion that the teams may come before the City Commission to complain that they were not allowed to use the fields. It was agreed that if the teams do not clean up after themselves they should be denied usage of the field.

Ms. Smith asked if this change could be rewritten and resubmitted to Foundation Academy because she does not have the authority to approve the changes. Mr. Ardaman replied yes, all we need to do is strike the reasonable charge to clean the fields. Then Foundation Academy will need to impose the rule that the organizations must keep the

fields clean. If they don't then Foundation Academy would not allow them access. There was discussion that the academy will need to describe what is expected of the organizations.

Mr. Ardaman stated that if on page 2 we strike "the reasonable charge to clean the fields and..." which would leave in a field lighting fee equal to the rate charged by the City for City fields.

Mr. Bollhoefer suggested adding a clause that if these groups fail to clean the fields then Foundation Academy will have the right to deny usage.

Mr. Richards asked how the City handles policing the cleaning of the fields. Recreation Director Conn replied that currently the little leagues are required to police their own fields. He stated that with other groups using the fields, the City does not specifically state that they need to fully clean the field, but ask that they place the trash in the trash receptacles. If they misuse the facility, they are not allowed to use them again.

Mr. Ardaman asked whether the groups have to take their trash with them or put it in the dumpster. Mr. Richards responded that this was the entire issue that they clean up after themselves. Mr. Ardaman clarified that as long as the trash is placed in the dumpster and the fields are left in a clean condition this should be fine. If they do not, then they will be denied use.

Motion by Commissioner Jowers to approve with the agreement changes as suggested by the City Attorney to the 10-year agreement with Foundation Academy in exchange for the City paying their impact fees from the General Fund for a new campus concession stand and athletic field restrooms. Seconded by Commissioner Boulter and carried unanimously 5-0.

C. Selection of five members each to the Downtown Architectural Review Board and the State Road 50 Board

City Manager Bollhoefer stated that these boards were previously discussed and will include looking at the SR 50 overlay ordinance, a possible CRA and/or other options to help in the beautification of State Road 50. He stated that he did not know if the City Commission was prepared with any names but originally five members were discussed for the State Road 50 Board, but he thinks that seven members should be chosen. For the Architectural Review Board his thoughts are for five members being appointed by the City Commission, two representatives from the Heritage Foundation, one architect, and one staff member for a total of nine members.

Mr. Bollhoefer stated that it is not necessary to make the appointment tonight, but he would like to move forward with this in the very near future. He will be submitting an ordinance creating both of these boards at the next Commission meeting.

Commissioner Boulter asked how long the City Commission has to decide on this issue. Mr. Bollhoefer responded as much time as they want, there is no ordinance yet. Mayor

Rees suggested that the staff prepare the ordinances and during the next two weeks everyone can be thinking of citizens to serve on these boards. Commissioner Buchanan asked for clarification on the State Road 50 board. Mr. Bollhoefer explained that this would be up to the City Commission to decide, but he recommends picking a variety of people from State Road 50. At least one member could be in the County enclaves, one person in the City limits that has an existing building, and one person on State Road 50 that has a green space. The purpose is to try and get a good mix of members. The last time the City went over State Road 50 there was the complaint that there was not enough community input from the groups on State Road 50.

There was discussion that these ordinances would be prepared for the next meeting and an advertisement would be placed to increase interest in participating.

4. **MATTERS FROM CITIZENS** – There were none.

5. **MATTERS FROM CITY ATTORNEY** – There were no items.

8. **MATTERS FROM CITY MANAGER** –

- **Interim Budget**

City Manager Bollhoefer stated that he wanted to make the City Commission aware that we are entering the interim budget period. The City has lost a lot of its revenue because of the property tax changes in Amendment No. 1. In addition, people are buying less gas so the city will see fewer funds from the local option gas tax. He explained that this tax is not based on dollars, but the number of gallons purchased. When fewer gallons are purchased, the City receives less money. That money is used for our road projects. Also, sales taxes are starting to decline. As we go into this interim budget, the City will be faced with some challenges when it comes to its revenues.

- A. **New Fire Department ladder truck**

City Manager Bollhoefer stated he wanted to let the Fire Chief address the tire truck and the Advance Life Support (ALS). Fire Chief Williamson stated that last year a few paramedics were acknowledged for going through the paramedic school. That was one step of many in the ALS program. In December, the City received its state license from the State of Florida to be an ALS provider. With this new license, there will be yearly inspections which the City has never done before. He stated that yesterday, a representative from the state was here and gave the City a very good report. The state inspector stated that rarely does she see a department as ours so organized on a first inspection. He recognized Matt McGrew and other staff members that were instrumental in getting this City ready for the state inspection. Mr. Bollhoefer had Chief Williamson briefly explain ALS.

Chief Williamson stated that two weeks after going ALS the Fire Department took delivery of its fire ladder truck and he extended an invitation for the Mayor, Commissioners, and citizens to go across the street after the meeting to see the new fire truck.

B. Discussion on the Districting Commission

Mr. Bollhoefer addressed that the Charter requires that a redistricting committee be put into place by April 30th. Each Commissioner and the Mayor will need to pick one person for the committee. He asked if the appointee is approved by the whole City Commission. Ms. Golden responded that the revised Charter states that each appointment shall be confirmed by a majority vote of the Commission.

Mayor Rees stated that the City Commission should review this matter and be ready with their nominations at the next City Commission meeting.

Ms. Golden asked if the City Commission wanted to consider applications being submitted. Mayor Rees responded yes, the City Commission will need to be provided with those applications because they will have to be chosen by the City Commissioner from their own district. Mr. Ardaman stated added that appointment will be subject to the City Commission's approval.

Commissioner Sharman asked if there was a stipulation that the volunteers cannot serve on other boards. Mr. Ardaman responded that if they are making a decision then there will be a dual office holding concern. Commissioner Jowers asked if this would be a quasi-judicial board. Mr. Ardaman replied that there are requirements and/or criteria that they have to meet. They will need to hold noticed public meetings with minutes being taken. They will have some criteria. It may be a little difficult because there will be some federal laws involved due to a prior court case that will need to be reviewed to see how that might affect their final actions.

Ms. Golden added that a key point is the Charter states that if the City Commission does not adopt new district boundaries within 120 days, it will revert to the committee's recommendation.

There was discussion on the recruitment notice being advertised in the local newspaper. Ms. Golden asked if the Commission wanted the applicants to submit their interest form to the City or to contact their Commissioner directly. Commissioner Boulder suggested both. It was the **consensus** of the City Commission that both methods be advertised.

9. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Buchanan stated that he attended the West Orange Chamber Board meeting today as the City's representative and found out that they have lost their primary sponsor for the Best Fest and they are looking for other alternatives. He explained that this is a large business expo where people come and show their wares and this event could bring in a lot of people to our area. He has offered them the location just West of Pounds to put together a staging area for the Best Fest. He was hoping that it would give the merchants of downtown Winter Garden more exposure. He stated that he would like permission from the City Commission to have the City Manager contact Stina Duva with the West Orange Chamber of Commerce in an effort to secure this location for the expo. Commissioner Buchanan stated that there was discussion of having this event at Fowler Groves. Dan Petro during the meeting stepped up and stated that if they have it in Downtown Winter Garden he would put

up the money for the tents, which is a \$7,000 donation from Bright Futures Electric, to help bring it to downtown Winter Garden.

Mr. Bollhoefer stated that he thinks it would be great for the City and another opportunity for the downtown to have a great event. It was the **consensus** of the City Commission to allow City Manager Bollhoefer to negotiate this event with Ms. Duva.

Commissioner Boulter thanked the City for its participation in the Black History Awards Dinner at the Rosen Centre on Saturday night.

Secondly, Commissioner Boulter stated that the City is doing a wonderful job in installing the restrooms at Zanders Park and requested that doors be installed at the entrance for the public's safety.

Commissioner Sharman stated that he had the opportunity to visit a Homeowner's Association (HOA) meeting at Westside Townhomes. One of their concerns, and the City Manager has been working with them, is that it is not a gated community but they are treated as private roads. The owners can only raise their assessment fee five percent each year and never have enough funds to cover the road maintenance. The agreement the City Manager has been working on is that they can deed the roads over to the City and the City can issue a special assessment to bring their roads up to par. He asked if the City Commission thought this was feasible.

Commissioner Jowers shared that the builder of the Westside Townhomes, Mr. Stucki, wanted to install the roads himself and they were substandard. The City tried to get this right in the beginning and he has no problem with the City taking those roads if the residents are willing to agree to the one time assessment. Each one of them owns their townhome and that one time assessment could be very steep.

Mayor Rees stated that this is one of his concerns and suggested that the City evaluate what is needed and tell them what it will cost them to bring their roads up to our standards. They will then need to figure the one time assessment charge by the number of people and this could be pricey.

City Manager Bollhoefer stated that the cost to fix it and fix it correctly, including the parking which they will not be able to deed over, is \$500,000. This will not be an easy thing to fix. If you exclude the parking area for the individual residents, it will be \$400,000. This would cost \$134 per year for each resident over a ten-year period. Staff can work on this issue and get more details, but it will not be easy or cheap.

Mayor Rees stated that the City Manager will compile this information and bring it back to the City Commission for their review.

Commissioner Sharman stated that he has enjoyed and appreciates how these last two meetings have been run. In particular, before a motion has been made there has been discussion or at least the City Commission was asked if anyone has questions.

The meeting adjourned at 7:25 p.m.

APPROVED:

/S/
MAYOR JOHN REES

ATTEST:

/S/
City Clerk Kathy Golden, CMC